

STATE: MINNESOTA
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ATTACHMENT 4.19-D (ICF/MR)

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reimbursement in the facility's cost report must be identified regardless of the proportion of ownership interest.

If a publicly-held corporation has an ownership interest of 15 percent or more in the facility, the facility must report the name, address, and proportion of ownership of all owners of the publicly-held corporation who have an ownership interest of ten percent or more.

H. A list of all related organizations which included costs in the cost report in excess of \$1,000 annually, and a list of all facilities in the provider group.

I. Copies of purchase agreements and other documents related to purchase of the physical plant and land, or a signed statement that no changes have been made in the documents which are on file with the Department.

J. Copies of leases and other documents related to the lease of the physical plant and land, or a signed statement indicating that no changes have been made in the documents on file with the Department. Lease documents must include information on the historical capital cost of the physical plant and land, and the information listed in item D as paid by the lessor.

K. Complete lapsing depreciation schedules.

L. Charts showing staff assignments classified according to the cost categories. The charts must contain the information specified in the cost report form.

M. Documentation of costs included in the payment rate for approved services for very dependent persons with special needs. These costs must be reported on an individual resident basis unless the special needs payment rate was approved for more than one resident.

N. An explanation of all adjustments made by the provider to the cost report and the applicable rule citations.

O. A breakdown of all costs included in the related organization's management fees or central, affiliated, or corporate office costs charged to the provider and the related organization's costs allocable to the facility. The breakdown must contain all costs of items except that related organizations that have a federally approved cost allocation plan which has been documented by the provider, may break down the management fee or central office costs according to the approved plan. The supporting schedules must include the related organization's or the central, affiliated, or corporate office income statement; the cost allocated to each facility, related organization, or nonrelated organization; and an explanation of the

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method of allocation used.

Section 2.030 Supplemental reports. In order to substantiate the payment rate, the Department may require the provider to provide additional information such as copies of leases, purchase agreements, consultant contracts, income tax returns, etc.

Section 2.040 Method of accounting. The accrual method of accounting in accordance with generally accepted accounting principles consistently applied is the only method acceptable for purposes of satisfying reporting requirements. If a government owned facility demonstrates that the use of the accrual method of accounting is not applicable to the facility, and that a cash or modified accrual method of accounting more accurately reports the facility's financial operations, the Department shall permit the provider to use a cash or modified accrual method of accounting.

Section 2.050 Records. The provider must maintain statistical and accounting records in sufficient detail to support the five most recent annual cost reports submitted to the Department.

Section 2.060 Conflicts. If conflicts occur between the rules for ICFs/MR and generally accepted accounting principles, then the rule will prevail.

Section 2.070 Certification of reports. Required reports must be accompanied by a signed statement attesting to the accuracy of the information submitted on the required reports.

Section 2.080 Deadlines, extensions, and rejections.

A. The facility must submit the required annual cost reports to the Department by April 30. The annual cost report must cover the reporting year ending on December 31 of each year. A facility that terminates participation in the medical assistance program during a reporting year must submit the required annual cost report covering the period from January 1 of that reporting year to the date of termination. The annual cost report must be submitted within four months after termination.

B. The Department may reject any annual cost report filed by a facility that is incomplete or inaccurate or may require supplemental information. The corrected report or the supplemental information requested must be returned to the Department within 20 days of the request or the report must be rejected. The Department shall extend this time if the facility submits a written request and if the extension of time will not prevent the Department from establishing rates in a timely manner. Except as provided in item C, failure to file the required

cost report and other required information or to correct the form of an incomplete or inaccurate report shall result in the rejection of the cost report and in a reduction of the payment rate as specified in Section 2.100. Except as provided in item C, failure to provide the additional information shall also result in a reduction in the payment rate unless the total payment rate can be calculated by the disallowance of the cost for which the additional information was requested, in which case no rate reduction shall occur.

C. Except for the copy of the lease agreement, failure to provide the information in Section 2.020, item I and Section 2.030, item C when the lessor refuses to provide the information shall not result in a reduction in the payment rate as specified in Section 2.100 if the lease or rental agreement was arms-length.

Section 2.090 Effective date of total payment rate. The Department shall provide notice to each facility of its total payment rate by September 1 of each year. The total payment rate is effective from October 1 of that year to September 30 of the following year.

Section 2.100 Noncompliance. A facility's failure to comply with reporting requirements subjects the facility to items A to C.

A. Except as provided in item D, if a facility fails to provide reports, documentation, and worksheets, the Department shall reduce the facility's total payment rate to 80 percent of the total payment rate as provided in item B.

B. The reduced total payment rate is effective:

(1) 21 days after a written request for additional information under Section 2.080, item B is sent by the Department, except when an extension has been granted pursuant to that item;

(2) for failure to provide the information required on April 30; or 21 days after a written request for the correction or completion of inaccurate reports or financial statements or at the expiration of such further time period as the Department may allow.

C. Reinstatement of the total payment rate upon remedy of the failure or inadequacy is retroactive.

D. The penalty in this section does not apply to a facility identified by the commissioner as participating in the proposed performance based contracting demonstration waiver project.

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Section 2.110 **Audits.** Facility audits are subject to items A to C.

A. The Department will subject reports and supporting documentation to desk and field audits. Retroactive adjustments may be made as a result of desk or field audit findings. If the audits reveal inadequacies in facility record keeping or accounting practices, the Department may require the facility to engage competent professional assistance to correct those inadequacies within 90 days of the written notification by the Department so that the field audit may proceed.

B. Field audits may cover the four most recent annual cost reports for which desk audits have been completed and payment rates have been established. The field audit must be an independent review of the facility's cost report. All transactions, invoices, or other documents that support or relate to the costs claimed on the annual cost reports are subject to review by the field auditor.

C. A field audit shall be completed within 90 days after commencement for a provider with a single facility or within 180 days for a provider group.

Section 2.120 **Suspension of audit.** The Department may suspend a field audit for good cause or if the provider's books and records are unavailable or unauditale. The Department shall notify the provider in writing when a field audit is suspended. If the field audit is suspended, the Department shall indicate in writing the date the field audit will again commence. If the field audit is suspended because the provider's books and records are unavailable or unauditale, the Department shall follow the procedures in Section 2.110, item A. The deadline for completion of the field audit must be extended by the length of the suspension.

Section 2.130 **Adjustments.** Adjustments to the total payment rate may be made as a result of desk or field audit findings or subject to Section 7.030. Desk or field audit adjustments are made according to items A to G.

A. Field audit adjustments must be made only if the adjustment would result in at least a five cent per resident day or \$2,000 cost change, whichever is less.

B. Retroactive adjustments to the facility's total payment rate must be made as a result of desk and field audit findings, except that field audit adjustments shall be limited by the restrictions in item A.

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C. If the adjustment results in a payment from the provider, payment must be made by the provider within 120 days after the date of the written notice. If the payment rate adjustment results in a payment to the provider, the medical assistance program payment to the provider must be made within 120 days after the date of the written notice. Interest charges must be assessed on balances outstanding after 120 days of written notification to the provider.

D. If an appeal has been filed, any payments owed by the provider or by the Department must be made within 120 days of the written notification to the provider of the Department's ruling on the appeal. Interest charges must be assessed on balances outstanding after 120 days of written notification of the Department's ruling on the appeal.

E. The annual interest rate charged in items C and D must be the rate charged by the Minnesota Department of Revenue for late payment of taxes, which is in effect on the 121st day after the written notification. The Department may waive interest charges on overpayments incurred by ICFs/MR for the period October 1, 1987 to February 29, 1988, if the overpayments resulted from the continuation of the desk audit rate in effect on September 30, 1987, through the period. Interest charges are nonallowable charges under Section 5.000, item G.

F. Any changes, adjustments, or amendments which result in a reimbursement to the facility shall be subject to the limitations in Section 7.022.

G. Adjustments to the payment rate are limited to the four complete reporting years preceding the date on which an audit commences. Changes in the total payment rate which result from desk or field audit adjustments to cost reports for reporting years beyond the four most recent annual cost reports, must be made to the four most recent annual cost reports, the current cost report, and future cost reports to the extent that those adjustments affect the total payment rate established by those reporting years.

Section 2.140 Amended reports. Amendments to previously filed annual cost reports are governed by items A to E.

A. Facilities may file amendments to previously filed cost reports when errors or omissions in the annual cost report are discovered which would result in at least a five cent per resident day or \$2,000 adjustment, whichever is less for each reporting year.

B. The Department shall make retroactive adjustments to the total payment rate of an individual facility if the amendment is filed within 14 months of the original cost report to be amended. An error or omission for purposes of this item does not include a facility's

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determination that a prior choice between alternative methods of reporting costs permitted under the rules was not advantageous and should be changed. Errors or omissions which do not meet the threshold amount required for an amended cost report, or errors or omissions discovered after the 14-month time limitation, may be claimed at the time of the field audit.

C. Providers must not amend a previously filed cost report for the purpose of removing costs of services for which the facility seeks separate billing.

D. The amended cost report must consist of the corrected cost report pages resulting in the amendment and supporting documentation.

E. Providers can file no more than two amendments to a previously filed cost report in which they have found errors or omissions.

Section 2.150 False reports. If a provider knowingly supplies inaccurate or false information in a required report that results in an overpayment, the Department shall do one or more of the following:

- A. immediately adjust the facility's payment rate to recover the entire overpayment;
- B. terminate the Department's agreement with the provider; and/or
- C. prosecute under applicable state or federal laws.

Section 2.155 Treble damages. Any vendor of medical care who willfully submits a cost report, rate application or claim for reimbursement for medical care which the vendor knows is false representation and which results in the payment of public funds for which the vendor is ineligible shall, in addition to other provisions of Minnesota law, be subject to an action by the State of Minnesota for civil damages. The damages awarded shall include three times the payments which result from the false representation, together with costs and disbursements, including reasonable attorneys' fees or their equivalent.

Section 2.160 Reporting real estate taxes, special assessments, and insurance. The facility shall submit a copy of its statement of real estate taxes payable for the calendar year in which the rate year begins and a copy of the invoices for the real estate insurance and professional liability insurance for coverage during the rate year by June 30 each year. Except as provided in this section, the Department shall disallow the costs of real estate taxes, special assessments, real estate insurance, and professional liability insurance, if the documentation is not submitted by July 31. The disallowance shall remain in effect until the facility provides the

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documentation and amends the cost report under Section 2.140. The historical operating cost for the special operating costs during the reporting year must be shown on the cost report.

SECTION 3.000 COST CLASSIFICATION AND ALLOCATION PROCEDURES.

Section 3.010 Cost classification. Costs must be classified as provided in this section. Total costs for each category must be compiled and recorded on the cost report.

A. The provider shall classify costs using direct identification of costs, without allocation, by routine classification of transactions when costs are recorded in the books and records of the facility.

B. In addition to cost which must be included in the administrative cost category, indirect costs such as generic supplies that cannot be readily assignable to one or more cost categories must be classified to the administrative cost category.

C. Except for persons in top management, the compensation of any person having multiple duties, including persons who have only nominal top management responsibilities, must be directly identified and classified to the appropriate cost categories on the basis of time distribution records that show actual time spent, or an accurate estimate of time spent on various activities. Except as provided in item D, the compensation of persons who have top management responsibilities may be classified to a cost category other than administrative operating costs to the extent justified in time distribution records showing the actual time spent, or an accurate estimate of time spent on various activities. Any facility or provider group choosing to estimate the time spent in different cost categories must use a statistically valid method.

D. The compensation of a person who is classified as top management personnel and who performs any service for the central, affiliated, or corporate office must be allocated to the facility's administrative cost category in accordance with Section 3.040, item C if the facility or provider group served by the central, affiliated, or corporate office has more than 48 licensed beds.

Section 3.020 Allocation of personal expenses for owners whose primary residence is in the facility. Allocation procedures in this section must be applied to personal expenses of owners whose primary residence is in the facility to the extent that these costs were included in the facility's costs.

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A. Dietary services cost allocation must be based on the number of meals served.

B. Housekeeping, plant operations, and maintenance cost allocation must be based on the ratio of square feet of floor space devoted to personal use divided by the total square feet of floor space of the facility.

C. Depreciation, interest, real estate and personal property taxes, and property and liability insurance costs must be allocated based on the ratio of square feet of floor space devoted to personal use divided by the total square feet of floor space of the facility.

D. Laundry and linen costs, and administrative costs for items such as telephones and vehicles, must be allocated based on a reasonable estimate of actual use.

Section 3.030 Cost allocations for other services. Costs associated with services other than ICF/MR services such as apartments, semi-independent living services, and any other revenue generating operations, except respite care, must be allocated using the principles in Section 3.010 and the procedures in Section 3.020.

Section 3.040 Central, affiliated, or corporate office costs. Cost allocation for central, affiliated, or corporate offices shall be governed by items A to D.

A. Central, affiliated, or corporate office costs representing services of consultants required by law or rule in areas including dietary, pharmacy, program, or other resident care related activities may be allocated to the appropriate cost category, but only to the extent that those costs are directly identified by the facility.

B. For rate years beginning on or after October 1, 1993, the central, affiliated or corporate office cost allocation in subitems (1) to (6) must be used for determining rates.

(1) All costs that can be directly identified with a specific facility that is a related organization to the central, affiliated or corporate office, or that is controlled by the central, affiliated or corporate office under a management agreement must be allocated to that facility.

(2) All costs that can be directly identified with any other activity or function not described in subitem (1) must be allocated to that activity or function.

(3) After the costs that can be directly identified according to subitems (1) and (2) have been allocated, the remaining central, affiliated or corporate office costs must be

allocated between the ICF/MR operations and other activities or facilities unrelated to the ICF/MR operations based on the ratio of total operating costs determined as follows:

(a) The numerator for the allocation ratio shall be determined as follows:

i. For facilities that are related organizations or are controlled by a central, affiliated or corporate office under a management agreement, the numerator of the allocation ratio shall be equal to the sum of the total operating costs incurred by each related organization or controlled facility.

ii. For a central, affiliated or corporate office providing goods or services to related organizations that are not intermediate care facilities for persons with mental retardation or related conditions, the numerator of the allocation ratio shall be equal to the sum of the total operating costs incurred by the non-ICF/MR related organizations.

iii. For a central, affiliated or corporate office providing goods or services to unrelated intermediate care facilities for persons with mental retardation or related conditions under a consulting agreement, the numerator of the allocation ratio shall be equal to the greater of directly identified central, affiliated or corporate costs or the contracted amount.

iv. For business activities that involve the provision of goods or services to unrelated parties which are not intermediate care facilities for persons with mental retardation or related conditions, the numerator of the allocation ratio shall be equal to the greater of directly identified costs or revenues generated by the facility or function.

(b) The denominator for the allocation ratio is the sum of the numerators in subclauses i to iv of clause (a).

(4) Those long term care operations that have intermediate care facilities for persons with mental retardation or related conditions both in Minnesota and outside of Minnesota must:

(a) Allocate the facility operation's central, affiliated or corporate office costs identified in item B, subitem (3) to Minnesota based on the ratio of total resident days in Minnesota facilities to the total resident days in all facilities.

(b) Allocate the Minnesota facility operation's central, affiliated or corporate office costs identified in clause (a) to each Minnesota facility on the basis of resident days.

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(5) Definitions. For purposes of item B, the following have the meanings given them.

(a) "Management agreement" means an agreement in which one or more of the following criteria exist:

i. The central, affiliated or corporate office has or is authorized to assume day-to-day operation control of the intermediate care facility for persons with mental retardation or related conditions for any six-month period within a 24-month period. "Day-to-day operation control" means that the central, affiliated or corporate office has the authority to require, mandate, direct, or compel the employees of the facility to perform or refrain from performing certain acts, or to supplant or take the place of the top management of the facility. Day-to-day operational control includes the authority to hire or terminate employees or to provide an employee of the central, affiliated or corporate office to serve as an administrator of the facility.

ii. The central, affiliated or corporate office performs or is authorized to perform two or more of the following: the execution of contracts; authorization of purchase orders; signature authority for checks, notes, or other financial instruments; requiring the facility to use the group or volume purchasing services of the central, affiliated or corporate office; or the authority to make annual capital expenditures for the facility exceeding \$50,000 or \$500 per licensed bed, whichever is less, without first securing the approval of the facility board of directors.

iii. The central, affiliated or corporate office becomes or is required to become the licensee under applicable state law.

iv. The agreement provides that the compensation for services provided under the agreement is directly related to any profits made by the facility; or

v. The ICF/MR entering into the agreement is governed by a governing body that meets fewer than four times a year, that does not publish notice of its meetings, or that does not keep formal records of its proceedings.

(b) "Consulting" agreement means any agreement the purpose of which is for a central, affiliated or corporate office to advise, counsel, recommend, or suggest to the owner or operator of the non-related intermediate care facility measures and methods for improving the operations of the intermediate care facility.

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(6) This section does not apply to payment rates determined under Sections 14.000 and 15.000, except that any additional directly identified costs associated with the Department of Human Services' or the Department of Health's managing agent under a receivership agreement must be allocated to the ICF/MR under receivership, and are nonallowable costs to the managing agent on the facility's cost report.

C. Central, affiliated, or corporate office property-related costs of capital assets used directly by a facility in the provision of ICF/MR services must be classified to the property-related cost category of the facility which uses the capital asset. Central, affiliated, or corporate office property-related costs of capital assets that are not used directly by a facility in the provision of ICF/MR services must be allocated to the administrative cost category of each facility using the methods described in item B.

D. The useful life of a capital asset maintained by a central, affiliated, or corporate office must be determined as in Section 9.010, item B.

Section 3.043 Central, affiliated, or corporate office costs for rate years beginning on or after October 1, 1996. Cost allocation for central, affiliated, or corporate offices for rate years beginning on or after October 1, 1996 shall be governed by items A to F.

A. Central, affiliated, or corporate office salary expense representing services of consultants required by law or rule in areas including dietary, pharmacy, program, or other resident care related activities may be allocated to the appropriate cost category, but only to the extent that those costs are directly identified by the facility.

B. Central, affiliated or corporate office costs representing services of consultants not required by law in the areas of program, quality assurance, medical records, dietary, other care related services, and plant operations may be allocated to the appropriate operating cost category of a facility according to subitems (1) to (5).

(1) Only the salary, fringe benefits, and payroll taxes associated with the individual performing the service may be allocated. No other costs must be allocated.

(2) The allocation must be based on direct identification and to the extent justified in time distribution records which show the actual time spent by the consultant performing services in the facility.

(3) The cost in subitem (1) for each consultant must be allocated to only one operating cost category in the facility. If more than one facility is served by a consultant, all

facilities must allocate the consultant's cost to the same operating cost category.

(4) Top management personnel are not considered consultants for purposes of this item.

(5) The consultant's entire job responsibility is to provide the services identified in this item.

C. Except as provided in items A and B, central, affiliated, or corporate office costs must be allocated to the administrative cost category of each facility within the group served by the central, affiliated, or corporate office according to subitems (1) to (5).

(1) All costs that can be directly identified with a specific facility must be allocated to that facility.

(2) All costs that can be directly identified with a specific operation unrelated to the facility's operation must be allocated to that unrelated operation.

(3) After the costs that can be directly identified according to subitems (1) and (2) have been allocated, the remaining central, affiliated or corporate office costs must be allocated between the facility operations and unrelated operations based on the ratio of expenses.

(4) Next, operations that have facilities both in Minnesota and outside of Minnesota must allocate the central, affiliated, or corporate office costs to Minnesota based on the ratio of total resident days in Minnesota facilities to the total resident days in all facilities.

(5) Finally, the facility related central, affiliated, or corporate office costs must be allocated to each facility based on resident days.

D. Central, affiliated, or corporate office property-related costs of capital assets used directly by a facility in the provision of ICF/MR services must be classified to the property-related cost category of the facility that uses the capital asset. Central, affiliated, or corporate office property-related costs of capital assets that are not used directly by a facility in the provision of ICF/MR services must be allocated to the administrative cost category of each facility using the methods described in item C.

E. The useful life of a capital asset maintained by a central, affiliated, or corporate office must be determined as in Section 9.010, item B.

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F. A governmental or nonprofit organization that has a federally approved cost allocation plan may allocate management fees or central office costs to a related organization based on the governmental or nonprofit organization's federal cost allocation plan. The provider must document that the allocation plan has been approved by the federal government.

Section 3.050 Allocation of costs to related or nonrelated organizations. A facility's costs associated with services or goods provided by the facility to a related or nonrelated organization must be allocated on the basis of items A to C.

A. Costs of services must be allocated based on the documentation of time spent performing the service by each individual providing services to the related organization or nonrelated organization. All identifiable expenses including salary, fringe benefits and payroll taxes, travel, and supplies of an individual providing services for related organizations or nonrelated organizations must be allocated based on the ratio of actual time spent performing the services for each related or nonrelated organization.

B. The cost of goods sold to or used by a related organization or nonrelated organization must be directly allocated to the organization. The cost of goods sold to or used by more than one organization must be allocated proportionally to each related organization or nonrelated organization based on a reasonable estimate of actual use.

C. The cost of goods or services allocated to a related organization or nonrelated organization must not be an allowable cost for the facility.

Section 3.060 Payroll tax and fringe benefit cost allocation. A facility's payroll taxes and fringe benefits reported in the payroll taxes and fringe benefit cost category must be classified to the program operating cost category, the maintenance operating cost category, and the administrative operating cost category based on direct identification or an allocation using the ratio of allowable salary costs in each of those cost categories to total allowable salary costs.

SECTION 4.000 DETERMINATION OF ALLOWABLE COSTS.

Section 4.010 Allowable costs. Only costs determined to be allowable may be used to compute the total payment rate for facilities participating in the medical assistance program.

Section 4.020 Licensure and certification costs. The costs of meeting the applicable licensure and certification standards listed in items A to E are allowable costs for the purpose of setting the facility's total payment rate unless otherwise provided. The standards are:

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A. federal regulations for ICF/MR services;

B. requirements established by the Department for meeting program licensing standards and standards for aversive and deprivation procedures;

C. requirements established by the Department of Health for meeting health standards as set out by state rules and federal regulations;

D. requirements to comply with changes in federal or state laws and regulations; and

E. other requirements for licensing under federal or state law, state rules, federal regulations, or local standards that must be met to provide ICF/MR services.

Section 4.030 Service costs. The costs of services including program, maintenance, administrative, payroll taxes and fringe benefits, and property-related costs are allowable costs for the purpose of setting the facility's total payment rate unless otherwise stated.

Section 4.040 Applicable credits. Applicable credits must be used to offset or reduce the expenses of the facility to the extent that the cost to which the credits apply was claimed as a facility cost. This cost principle does not apply to items A and B:

A. payments made by the Department to the provider for approved services for very dependent persons with special needs.

B. gifts and donations from nongovernmental sources.

Section 4.050 Adequate documentation. A facility shall keep adequate documentation.

A. In order to be considered adequate, documentation must:

(1) be maintained in orderly, well-organized files;

(2) not include documentation of more than one facility in one set of files unless transactions may be traced by the Department to the facility's annual cost report;

(3) include a paid invoice or copy of a paid invoice with date of purchase, vendor name and address, purchaser name and delivery address, listing of items or services purchased, cost of items purchased, account number to which the cost is posted, and a